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and JOEY GREENWELL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

COLLEGE REPUBLICANS AT SAN
FRANCISCO STATE UNIVERSITY, et al.,

Plaintiffs,

v.

CHARLES B. REED, et al.,

Defendants.

CASE NO.: C 07 3542 WDB

CTRM: 4

JUDGE: Honorable Wayne D. Brazil

**DEFENDANTS' ANSWER TO FIRST
AMENDED VERIFIED COMPLAINT**

Date of Filing: August 30, 2007

Trial Date: None

Defendants Charles B. Reed, Robert A. Corrigan, J.E. Saffold, and Joey Greenwell
(collectively "CSU" or "defendants") answer the first amended verified complaint of all plaintiffs as
follows:

ANSWER TO "INTRODUCTION" SECTION

1. In response to paragraph 1 of the first amended complaint, defendants admit that
students who matriculate at SFSU are provided a forum for free debate and free exchange of ideas;
other than as expressly admitted herein, defendants deny the remaining allegations of paragraph 1.

2. In response to paragraph 2 of the first amended complaint, defendants admit that SFSU
is a public institution of higher learning; other than as expressly admitted herein, defendants deny the
remaining allegations of paragraph 2.

3. In response to paragraph 3 of the first amended complaint, defendants admit that the

1 College Republicans at SFSU held an Anti-Terrorism Rally on campus in October 2006, that a
2 complaint was filed as a result of the rally, and that an investigation of the complaint was conducted;
3 other than as expressly admitted herein, defendants deny the remaining allegations of paragraph 3.

4 4. In response to paragraph 4 of the first amended complaint, defendants deny each and
5 every allegation contained therein.

6 5. In response to paragraph 5 of the first amended complaint, defendants are without
7 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
8 paragraph, and on that basis, deny each and every allegation contained therein.

9 **ANSWER TO “JURISDICTION AND VENUE” SECTION**

10 6. In response to paragraph 6 of the first amended complaint, defendants admit that this is
11 a federal civil rights action; other than as expressly admitted herein, defendants deny the remaining
12 allegations of paragraph 6.

13 7. In response to paragraph 7 of the first amended complaint, defendants admit that the
14 Court has original jurisdiction under the grounds alleged.

15 8. In response to paragraph 8 of the first amended complaint, defendants admit that this
16 Court has authority to grant the requested relief and damages under the cited authorities, except to the
17 extent the Eleventh Amendment provides immunity from such relief and/or damages; other than as
18 expressly admitted herein, defendants deny the remaining allegations of paragraph 8.

19 9. In response to paragraph 9 of the first amended complaint, defendants admit that venue
20 is proper in this Court.

21 **ANSWER TO “INTRADISTRICT ASSIGNMENT” SECTION**

22 10. In response to paragraph 10 of the first amended complaint, defendants admit the
23 allegations contained therein.

24 **ANSWER TO “PLAINTIFFS” SECTION**

25 11. In response to paragraph 11 of the first amended complaint, defendants admit the
26 College Republicans at San Francisco State University is an unincorporated student organization at
27 SFSU. As to the remaining allegations, defendants are without knowledge or information sufficient to
28 form a belief as to the truth of the remaining allegations contained in said paragraph, and on that basis,

1 deny each and every remaining allegation contained therein.

2 12. In response to paragraph 12 of the first amended complaint, defendants admit that
3 Leigh Wolf is and was at all times relevant to this complaint, a student at SFSU and an officer of
4 College Republicans. As to the remaining allegations, defendants are without knowledge or
5 information sufficient to form a belief as to the truth of the remaining allegations contained in said
6 paragraph, and on that basis, deny each and every remaining allegation contained therein.

7 13. In response to paragraph 13 of the first amended complaint, defendants admit that Trent
8 Downes is and was at all times relevant to this complaint, a student at SFSU and an officer of College
9 Republicans. As to the remaining allegations, defendants are without knowledge or information
10 sufficient to form a belief as to the truth of the remaining allegations contained in said paragraph, and
11 on that basis, deny each and every remaining allegation contained therein.

12 **ANSWER TO “DEFENDANTS” SECTION**

13 14. In response to paragraph 14 of the first amended complaint, defendants admit the
14 allegations contained therein.

15 15. In response to paragraph 15 of the first amended complaint, defendants admit the
16 allegations contained therein.

17 16. In response to paragraph 16 of the first amended complaint, defendants admit the
18 allegations contained therein.

19 17. In response to paragraph 17 of the first amended complaint, defendants admit the
20 allegations contained therein.

21 **ANSWER TO “FACTUAL BACKGROUND” SECTION**

22 18. In response to paragraph 19 of the first amended complaint, defendants admit that
23 student life for undergraduate students at SFSU is governed in part by the Student Conduct Code, the
24 Sexual Harassment Policy and Procedures, and the Office of Student Programs and Leadership
25 Development (OSPLD) Student Organization Handbook; other than as expressly admitted herein,
26 defendants deny the remaining allegations of paragraph 18.

27 19. In response to paragraph 19 of the first amended complaint, defendants admit the
28 allegations contained therein.

1 20. In response to paragraph 20 of the first amended complaint, defendants admit the
2 allegations contained therein.

3 21. In response to paragraph 21 of the first amended complaint, defendants admit the
4 allegations contained therein.

5 22. In response to paragraph 22 of the first amended complaint, defendants admit that the
6 Student Organization Handbook contains a section entitled "Student Group Misconduct;" other than as
7 expressly admitted herein, defendants deny the remaining allegations of paragraph 22.

8 23. In response to paragraph 23 of the first amended complaint, defendants admit the
9 allegations contained therein.

10 24. In response to paragraph 24 of the first amended complaint, defendants deny each and
11 every allegation contained therein.

12 25. In response to paragraph 25 of the first amended complaint, defendants admit the
13 allegations contained therein.

14 26. In response to paragraph 26 of the first amended complaint, defendants admit the
15 allegations contained therein.

16 27. In response to paragraph 27 of the first amended complaint, defendants deny each and
17 every allegation contained therein.

18 28. In response to paragraph 28 of the first amended complaint, defendants admit the
19 allegations contained therein.

20 29. In response to paragraph 29 of the first amended complaint, defendants admit the
21 allegations contained therein.

22 30. In response to paragraph 30 of the first amended complaint, defendants admit the
23 allegations contained therein.

24 31. In response to paragraph 31 of the first amended complaint, defendants admit the
25 allegations contained therein.

26 32. In response to paragraph 32 of the first amended complaint, defendants admit the
27 allegations contained therein.

28 33. In response to paragraph 33 of the first amended complaint, defendants admit the

1 allegations contained therein.

2 34. In response to paragraph 34 of the first amended complaint, defendants are without
3 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
4 paragraph, and on that basis, deny each and every allegation contained therein.

5 35. In response to paragraph 35 of the first amended complaint, defendants admit that
6 Leigh Wolf and Trent Downes are members of College Republicans. As to the remaining allegations,
7 defendants are without knowledge or information sufficient to form a belief as to the truth of the
8 remaining allegations contained in said paragraph, and on that basis, deny each and every remaining
9 allegation contained therein.

10 36. In response to paragraph 36 of the first amended complaint, defendants are without
11 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
12 paragraph, and on that basis, deny each and every allegation contained therein.

13 37. In response to paragraph 37 of the first amended complaint, defendants deny each and
14 every allegation contained therein.

15 38. In response to paragraph 38 of the first amended complaint, defendants admit the
16 allegations contained therein.

17 39. In response to paragraph 39 of the first amended complaint, defendants are without
18 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
19 paragraph, and on that basis, deny each and every allegation contained therein.

20 40. In response to paragraph 40 of the first amended complaint, defendants are without
21 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
22 paragraph, and on that basis, deny each and every allegation contained therein.

23 41. In response to paragraph 41 of the first amended complaint, defendants are without
24 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
25 paragraph, and on that basis, deny each and every allegation contained therein.

26 42. In response to paragraph 42 of the first amended complaint, defendants are without
27 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
28 paragraph, and on that basis, deny each and every allegation contained therein.

1 43. In response to paragraph 43 of the first amended complaint, defendants are without
2 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
3 paragraph, and on that basis, deny each and every allegation contained therein.

4 44. In response to paragraph 44 of the first amended complaint, defendants are without
5 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
6 paragraph, and on that basis, deny each and every allegation contained therein.

7 45. In response to paragraph 45 of the first amended complaint, defendants admit that
8 SFSU police officers and administrators were in the proximity of the College Republicans Rally on
9 October 17, 2006; other than as expressly admitted herein, defendants deny the remaining allegations
10 of paragraph 45.

11 46. In response to paragraph 46 of the first amended complaint, defendants are without
12 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
13 paragraph, and on that basis, deny each and every allegation contained therein.

14 47. In response to paragraph 47 of the first amended complaint, defendants are without
15 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
16 paragraph, and on that basis, deny each and every allegation contained therein.

17 48. In response to paragraph 48 of the first amended complaint, defendants admit the
18 allegations contained therein.

19 49. In response to paragraph 49 of the first amended complaint, defendants admit the
20 allegations contained therein.

21 50. In response to paragraph 50 of the first amended complaint, defendants admit that the
22 Director of OSPLD notified the College Republicans that a complaint had been filed and that OSPLD
23 was conducting a preliminary investigation. Defendants further admit that members of the College
24 Republicans agreed to give statements to OSPLD as part of the investigation. Other than as expressly
25 admitted herein, defendants deny the remaining allegations of paragraph 50.

26 51. In response to paragraph 51 of the first amended complaint, defendants are without
27 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
28 paragraph, and on that basis, deny each and every allegation contained therein.

1 52. In response to paragraph 52 of the first amended complaint, defendants admit the
2 allegations contained therein.

3 53. In response to paragraph 53 of the first amended complaint, defendants admit the
4 allegations contained therein.

5 54. In response to paragraph 54 of the first amended complaint, defendants are without
6 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
7 paragraph, and on that basis, deny each and every allegation contained therein.

8 55. In response to paragraph 55 of the first amended complaint, defendants admit that
9 Defendant Greenwell, Director of OSPLD, sent College Republican Carl Clark an e-mail stating that
10 OSPLD had concluded its investigation and was referring the matter to SOHP for review; other than as
11 expressly admitted herein, defendants deny the remaining allegations of paragraph 55.

12 56. In response to paragraph 56 of the first amended complaint, defendants admit that
13 OSPLD may refer a matter to SOHP for a formal hearing; other than as expressly admitted herein,
14 defendants deny the remaining allegations of paragraph 56.

15 57. In response to paragraph 57 of the first amended complaint, defendants are without
16 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
17 paragraph, and on that basis, deny each and every allegation contained therein.

18 58. In response to paragraph 58 of the first amended complaint, defendants admit that the
19 Student Group Misconduct policy provides that ASI nominates two members to sit on SOHP. As to
20 the remaining allegations, defendants are without knowledge or information sufficient to form a belief
21 as to the truth of the remaining allegations contained in said paragraph, and on that basis, deny each
22 and every remaining allegation contained therein.

23 59. In response to paragraph 59 of the first amended complaint, defendants are without
24 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
25 paragraph, and on that basis, deny each and every allegation contained therein.

26 60. In response to paragraph 60 of the first amended complaint, defendants admit that on
27 January 31, 2007, College Republicans held a "Corporate America Appreciation Day" in the Malcolm
28 X Plaza of SFSU. As to the remaining allegations, defendants are without knowledge or information

1 sufficient to form a belief as to the truth of the remaining allegations contained in said paragraph, and
2 on that basis, deny each and every remaining allegation contained therein.

3 61. In response to paragraph 61 of the first amended complaint, defendants admit that FIRE
4 and the ACLU sent letters to defendant SFSU President Robert Corrigan on behalf of the College
5 Republicans. As to the remaining allegations, defendants are without knowledge or information
6 sufficient to form a belief as to the truth of the remaining allegations contained in said paragraph, and
7 on that basis, deny each and every remaining allegation contained therein.

8 62. In response to paragraph 62 of the first amended complaint, defendants admit that
9 SFSU spokesperson Ellen Griffin made a statement to the *San Francisco Chronicle*; other than as
10 expressly admitted herein, defendants deny the remaining allegations of paragraph 62.

11 63. In response to paragraph 63 of the first amended complaint, defendants admit that on or
12 about March 9, 2007, SOHP conducted the formal hearing and that Mr. Gallagher and members of the
13 College Republicans presented testimony to the panel; other than as expressly admitted herein,
14 defendants deny the remaining allegations of paragraph 63.

15 64. In response to paragraph 64 of the first amended complaint, defendants admit that on
16 March 16, 2007, SOHP found no violation of the Student Code and dismissed Mr. Gallagher's
17 complaint; other than as expressly admitted herein, defendants deny the remaining allegations of
18 paragraph 64.

19 65. In response to paragraph 65 of the first amended complaint, defendants are without
20 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
21 paragraph, and on that basis, deny each and every allegation contained therein.

22 66. In response to paragraph 66 of the first amended complaint, defendants deny each and
23 every allegation contained therein.

24 67. In response to paragraph 67 of the first amended complaint, defendants are without
25 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
26 paragraph, and on that basis, deny each and every allegation contained therein.

27 68. In response to paragraph 68 of the first amended complaint, defendants deny that their
28 investigation was "baseless." As to the remaining allegations, defendants are without knowledge or

1 information sufficient to form a belief as to the truth of the remaining allegations contained in said
2 paragraph, and on that basis, deny each and every remaining allegation contained therein.

3 69. In response to paragraph 69 of the first amended complaint, defendants are without
4 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
5 paragraph, and on that basis, deny each and every allegation contained therein.

6 70. In response to paragraph 70 of the first amended complaint, defendants are without
7 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
8 paragraph, and on that basis, deny each and every allegation contained therein.

9 71. In response to paragraph 71 of the first amended complaint, defendants are without
10 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
11 paragraph, and on that basis, deny each and every allegation contained therein.

12 72. In response to paragraph 72 of the first amended complaint, defendants deny each and
13 every allegation contained therein.

14 73. In response to paragraph 73 of the first amended complaint, defendants are without
15 knowledge or information sufficient to form a belief as to the truth of the allegations contained in said
16 paragraph, and on that basis, deny each and every allegation contained therein.

17 74. In response to paragraph 74 of the first amended complaint, defendants deny each and
18 every allegation contained therein.

19 75. In response to paragraph 75 of the first amended complaint, defendants deny each and
20 every allegation contained therein.

21 76. In response to paragraph 76 of the first amended complaint, defendants deny each and
22 every allegation contained therein.

23 **ANSWER TO FIRST CAUSE OF ACTION**

24 77. In response to paragraph 77 of the first amended complaint, defendants incorporate
25 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
26 which were incorporated by reference into this one paragraph.

27 78. In response to paragraph 78 of the first amended complaint, defendants deny each and
28 every allegation contained therein.

1 79. In response to paragraph 79 of the first amended complaint, defendants deny each and
2 every allegation contained therein.

3 80. In response to paragraph 80 of the first amended complaint, defendants deny each and
4 every allegation contained therein.

5 81. In response to paragraph 81 of the first amended complaint, defendants deny each and
6 every allegation contained therein.

7 **ANSWER TO SECOND CAUSE OF ACTION**

8 82. In response to paragraph 82 of the first amended complaint, defendants incorporate
9 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
10 which were incorporated by reference into this one paragraph.

11 83. In response to paragraph 83 of the first amended complaint, defendants deny each and
12 every allegation contained therein.

13 84. In response to paragraph 84 of the first amended complaint, defendants deny each and
14 every allegation contained therein.

15 85. In response to paragraph 85 of the first amended complaint, defendants deny each and
16 every allegation contained therein.

17 **ANSWER TO THIRD CAUSE OF ACTION**

18 86. In response to paragraph 86 of the first amended complaint, defendants incorporate
19 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
20 which were incorporated by reference into this one paragraph.

21 87. In response to paragraph 87 of the first amended complaint, defendants deny each and
22 every allegation contained therein.

23 88. In response to paragraph 88 of the first amended complaint, defendants deny each and
24 every allegation contained therein.

25 89. In response to paragraph 89 of the first amended complaint, defendants deny each and
26 every allegation contained therein.

27 **ANSWER TO FOURTH CAUSE OF ACTION**

28 90. In response to paragraph 90 of the first amended complaint, defendants incorporate

1 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
2 which were incorporated by reference into this one paragraph.

3 91. In response to paragraph 91 of the first amended complaint, defendants deny each and
4 every allegation contained therein.

5 92. In response to paragraph 92 of the first amended complaint, defendants deny each and
6 every allegation contained therein.

7 93. In response to paragraph 93 of the first amended complaint, defendants deny each and
8 every allegation contained therein.

9 **ANSWER TO FIFTH CAUSE OF ACTION**

10 94. In response to paragraph 94 of the first amended complaint, defendants incorporate
11 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
12 which were incorporated by reference into this one paragraph.

13 95. In response to paragraph 95 of the first amended complaint, defendants deny each and
14 every allegation contained therein.

15 96. In response to paragraph 96 of the first amended complaint, defendants deny each and
16 every allegation contained therein.

17 97. In response to paragraph 97 of the first amended complaint, defendants deny each and
18 every allegation contained therein.

19 **ANSWER TO SIXTH CAUSE OF ACTION**

20 98. In response to paragraph 98 of the first amended complaint, defendants incorporate
21 their prior denials, admissions, and/or statement of insufficient knowledge, as to the earlier allegations
22 which were incorporated by reference into this one paragraph.

23 99. In response to paragraph 99 of the first amended complaint, defendants deny each and
24 every allegation contained therein.

25 100. In response to paragraph 100 of the first amended complaint, defendants deny each and
26 every allegation contained therein.

27 101. In response to paragraph 101 of the first amended complaint, defendants deny each and
28 every allegation contained therein.

ANSWER TO PRAYER FOR RELIEF

102. In response to plaintiffs' prayer for relief, defendants deny that plaintiffs are entitled to any of the requested relief, and deny all allegations contained therein.

AFFIRMATIVE DEFENSES

1. Plaintiffs' first amended complaint fails to state a claim upon which relief can be granted.

2. Defendants may be immune under the Eleventh Amendment from some or all of plaintiffs' claims.

3. Plaintiffs' claims for relief may be barred by the doctrines of waiver, estoppel, laches, and/or unclean hands, depending on the facts adduced in discovery.

4. Defendants reserve the right to assert such other affirmative defenses as may be developed in the course of litigation.

PRAYER

Wherefore, defendants pray as follows:

- A. That plaintiffs take nothing by way of their first amended complaint;
- B. That judgment be entered in favor of all defendants and against plaintiffs;
- C. That defendants recover their costs and reasonable attorneys' fees;
- D. For such orders and judicial determinations that the Court deems just and proper; and
- E. For such other and further relief as the Court deems just and proper.

CALIFORNIA STATE UNIVERSITY
OFFICE OF GENERAL COUNSEL

DATED: September 12, 2007

Andrea M. Gunn
Attorney for Defendants
CHARLES B. REED, ROBERT A. CORRIGAN,
J.E. SAFFOLD, and JOEY GREENWELL

ANSWER TO PRAYER FOR RELIEF

102. In response to plaintiffs' prayer for relief, defendants deny that plaintiffs are entitled to any of the requested relief, and deny all allegations contained therein.

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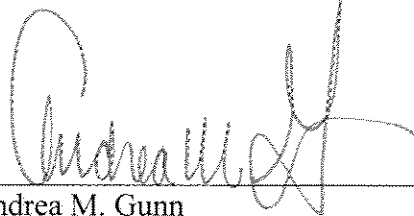
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PRAYER

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- A. That plaintiffs take nothing by way of their first amended complaint;
- B. That judgment be entered in favor of all defendants and against plaintiffs;
- C. That defendants recover their costs and reasonable attorneys' fees;
- D. For such orders and judicial determinations that the Court deems just and proper; and
- E. For such other and further relief as the Court deems just and proper.

CALIFORNIA STATE UNIVERSITY
OFFICE OF GENERAL COUNSEL



Andrea M. Gunn
Attorney for Defendants
CHARLES B. REED, ROBERT A. CORRIGAN,
J.E. SAFFOLD, and JOEY GREENWELL

DATED: September 12, 2007

PROOF OF SERVICE

College Republicans at SFSU, et al. v. Roberta Achtenberg, et al.

USDC Northern District Case No.: C 07-3542 (WDB)

OGC File No. 07-0909

I, **Lynn R. Rivera**, declare as follows:

I am employed in the County of Los Angeles, State of California. I am at least 18 years old, and not a party to this action. I am an employee of or agent for California State University, Office of General Counsel, whose business address is 401 Golden Shore, 4th Floor, Long Beach, CA 90802-4210.

On **September 12, 2007**, I served the document described as **DEFENDANTS' ANSWER TO FIRST AMENDED VERIFIED COMPLAINT** on the interested parties in this action as follows:

PLEASE SEE ATTACHED SERVICE LIST

BY MAIL—COLLECTION BOX: I placed each document in a sealed envelope with postage fully prepaid, in the California State University Office of General Counsel's mail collection box in Long Beach, California, so that following ordinary business practices, the envelope would be collected and mailed on this date. I am readily familiar with this office's business practice for collection and processing of mail. In the ordinary course of business, each document would be deposited with the United States Postal Service on that same day.

BY MAIL—PERSONAL DEPOSIT: I placed each document in a sealed envelope with postage fully prepaid and then deposited the envelope in a mail box regularly maintained by the United States Postal Service in Long Beach, California.

BY ELECTRONIC SERVICE: I delivered each document via electronic service to the attached service list.

BY OVERNIGHT DELIVERY: I placed each document in a sealed envelope with delivery fees fully prepaid, to be deposited in a box regularly maintained by Federal Express. I am readily familiar with this office's practice for collection and processing of documents for overnight delivery and know that in the ordinary course of California State University Office of General Counsel's business practice the envelope will be deposited in a box or other facility regularly maintained by Federal Express or delivered to a courier authorized by Federal Express to receive documents on the same date it is placed at California State University Office of General Counsel for collection.

BY FACSIMILE: By use of facsimile machine number (562) 951-4956 [4959], on September 12, 2007, at Long Beach, California, I served each document on the parties by transmitting each document to each facsimile numbers above, which are the facsimile machine telephone numbers last given by those parties. Each transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine. A copy is attached, and shows the actual time of transmission.

Signed on **September 12, 2007**, at Long Beach, California. I declare under penalty of perjury under the laws of the State of California that this declaration is true and correct.


LYNN R. RIVERA

PROOF OF SERVICE

College Republicans at SFSU, et al. v. Roberta Achtenberg, et al.
USDC Northern District Case No.: C 07-3542 (WDB)
OGC File No. 07-0909

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